

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

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UNITED STATES OF AMERICA : :
 : :
-vs- : Case No. 1:13-cr-418
 : :
YOUSSEF AL-KHATTAB, : :
Defendant. : :
-----: :

SENTENCING HEARING

April 25, 2014

Before: Liam O'Grady, USDC Judge

APPEARANCES:

Gordon D. Kromberg, John T. Gibbs and Mazen Basrawi,
Counsel for the United States

Alan H. Yamamoto, Counsel for the Defendant

The Defendant, Youssef al-Khattab, in person

1 THE CLERK: Criminal case number 1:13-cr-418, the
2 United States of America versus Yousef Mohamid al-Khattab.

3 MS. KROMBERG: Good morning, Your Honor. Gordon
4 Kromberg for the United States. With me at counsel table is
5 Department of Justice trial attorney John Gibbs, Special
6 Assistant U.S. Attorney Mazen Basrawi, and United States Secret
7 Service Special Agent Scott McGuckin.

8 THE COURT: All right. Good morning to you all.

9 MR. YAMAMOTO: Good morning, Your Honor. Alan
10 Yamamoto for Mr. al-Khattab.

11 THE COURT: All right. Good morning to you, Mr.
12 Yamamoto.

13 Good morning, Mr. al-Khattab.

14 THE DEFENDANT: Good morning, Your Honor.

15 THE COURT: Please have a seat.

16 This comes on for sentencing. Are the parties ready
17 to proceed?

18 MR. YAMAMOTO: Yes, Your Honor.

19 MR. KROMBERG: Yes, Your Honor.

20 THE COURT: All right. Other than the two-point
21 enhancement for the involvement of a pattern of activity under
22 2A6.2, which we will get to in a minute, do you have any other
23 amendments, additions, corrections you want made to the report?

24 MR. YAMAMOTO: No, Your Honor.

25 THE COURT: Mr. al-Khattab, did you have an

1 opportunity to go over the report, sir?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Any additions, corrections that you want
4 made at this time?

5 THE DEFENDANT: I just prefer when I can speak to the
6 judge if I have an opportunity. I don't know how to correct
7 legal papers, I am sorry, Your Honor. It seems --

8 THE COURT: Factually -- you know, I understand you
9 and the Probation officer had discussed some of the information
10 in the report, there were some modifications made --

11 THE DEFENDANT: That's correct, Your Honor.

12 THE COURT: But factually is there anything incorrect
13 that you want corrected?

14 THE DEFENDANT: Just what my attorney brought up to
15 you, Your Honor.

16 THE COURT: Okay. All right. Thanks. Have a seat
17 then.

18 Mr. Kromberg, any modifications the Government seeks?

19 MS. KROMBERG: No, Your Honor.

20 THE COURT: I will give you an opportunity to be
21 heard. I couldn't find any cases -- when I say I, much more
22 capable persons in my chambers were unable to find any
23 reference to an enhancement for 2A6.2 which was outside of the
24 spousal abuse type of offense from which this Guideline
25 obviously was born.

1 Mr. Kromberg, I am not going to give that enhancement
2 unless you can convince me otherwise.

3 MS. KROMBERG: It is not a very promising start,
4 Judge.

5 THE COURT: No, it's not.

6 MS. KROMBERG: It doesn't make sense that if you make
7 one -- if you try to scare someone one time, that that's the
8 same punishment or the same Guideline as if you do it
9 repeatedly over the course of months.

10 Just as the punishment, the Guidelines are tougher if
11 you threaten your spouse more than once, there is no reason why
12 the same logic doesn't apply that if on January 8, 2009, you
13 try to scare the Dickens out of somebody, and you keep doing it
14 again, and the police come talk to you, and you say, okay, I'll
15 stop, and then you keep doing it again into February and March
16 of 2009, and then you post things online saying Jews should
17 have acid thrown in their faces, at some point the punishment
18 should be higher for the second conduct than for just the
19 individual's first time you did it before the police came and
20 told you to stop.

21 This time, remember, Judge, he did it. The police
22 came and talked to him. And he said, I'll take it down. Which
23 he did not. And then he continued.

24 If that is not -- I mean, I don't see how that could
25 not be -- that could not merit a two-point enhancement for

1 repeated conduct.

2 THE COURT: Well, I think it's covered under the hate
3 crime enhancement that he received a three-point adjustment
4 upward for.

5 So I am not going to give the enhancement under 2A6.2
6 because I think it's covered under 3A1.1.

7 Which results in an Offense Level total of 18, and a
8 Guideline range of 27 to 33 months.

9 So I will make that adjustment.

10 Mr. Kromberg, I will hear anything else you would
11 like to say on sentencing.

12 MS. KROMBERG: Judge, I am not going to go over the
13 facts of the case. I think the Court is well aware of them.

14 It is amazing from the perspective of time to look
15 back at Revolution Muslim. In our pleading we listed, I
16 forget, I think it was about 15 different cases, 15 different
17 defendants in I think it was 14 different cases of individuals
18 who are -- who engage in terrorism or attempted to engage in
19 terrorism all were connected to Revolution Muslim. And it's
20 impossible to say, obviously, whether Revolution Muslim
21 inspired them to do it or they were going to do it anyway, and
22 that's why they were friends or associates of Revolution
23 Muslim.

24 But it still is quite a striking statistic when Mr.
25 Khattab's aim was to inspire Muslims to engage in terrorism.

1 He succeeded.

2 Now, it is true that he was not significantly
3 involved in the day-to-day operations of Revolution Muslim
4 after 2009. And it's true that he was not personally involved
5 in the particular threats of solicitations to kill that Morton
6 and Chesser were involved in.

7 And it's also true that Mr. Khattab has publicly
8 admitted the error of at least some of his earlier conduct.
9 And it's for these reasons that we have never sought a sentence
10 anywhere close to what Mr. Morton and Mr. Chesser got.

11 But at the same time, it cannot be denied that his
12 actions set in motion a sequence of events that later in the
13 hands of Morton, Chesser, and Samir Khan spiralled into even
14 more serious criminal activity.

15 His outrageous postings were the first, they predated
16 that of Morton and Chesser. And they even predated that of
17 Samir Khan, who later went on to bigger fame with Inspire
18 magazine until he got killed by the Drone.

19 In short, the fact that Morton, Chesser, and Samir
20 Khan pushed the envelope of murder solicitation on the Internet
21 as far as they did is likely attributable to the fact that they
22 started from where he stopped.

23 And the people who were inspired by Morton, Chesser,
24 and Samir Khan, some of whom we know and some of whom I suppose
25 we'll never know who were inspired by him, he gets credit for

1 that too when it comes time to fashioning a sentence because he
2 started it, and Morton, and Chesser, and Samir Khan went
3 farther that he did. And that all should be considered in
4 fashioning an appropriate sentence.

5 Mr. al-Khattab may regret his actions today, and we
6 hope he is sincere about it, but those messages are still out
7 there and they are going to be out there forever.

8 Regardless of any regrets he may have now, an
9 impressionable person with grievances may search the Internet
10 and find his rants and threats and solicitations from 2009 and
11 may choose to act on them. And as a result, the victims of
12 those threats and solicitations have to be aware of that until
13 the end of time.

14 All of us live in a world that was changed for the
15 worse by what he did. His punishment should be based on the
16 recognition that the world is populated by too many people who
17 will heed what he said then rather than anything he may say
18 now.

19 For the foregoing reasons, Judge, we recommend a term
20 of imprisonment of 36 months.

21 Thank you.

22 THE COURT: All right. Thank you, Mr. Kromberg.

23 Mr. Yamamoto.

24 MR. YAMAMOTO: I think I went nuts when I filed this
25 memorandum. The Court saw some of the results of my going nuts

1 in the attachment I put in there.

2 There are eight organizations in New York City that
3 are anti-Muslim and espouse the extermination of all Muslims
4 throughout the world and Islam. You go to any of those sites
5 and they repeat over and over, we've got to exterminate the
6 Muslims, we've got to kill all the Muslims.

7 I put in there the rally in New York, the pro-Israeli
8 rally, where the people were espousing, whoever was doing it,
9 who was apparently a Jewish newscaster, people were espousing,
10 you've got to kill the kids, you've got to kill the kids, you
11 have got to destroy their schools, you've got to kill them all.

12 There are extremists on both sides. The Internet now
13 allows everyone to voice their views and say whatever they
14 want, however hateful, nasty, obnoxious, as long as it's not
15 illegal.

16 Mr. al-Khattab stepped over the line. Not all the
17 time, but he did on occasion, there is no question about that.
18 That's why he pled guilty. That's why we didn't try this case.
19 I told him it was a triable case.

20 He's not the cause and the reason all these nuts are
21 out there doing things, all these extremists. He voiced his
22 views. He had a right to under the First Amendment. These
23 people did whatever they wanted. They went to his Web site
24 because they liked what he said.

25 I am sure there are anti-Muslims and skinheads and

1 all those kinds of people out there who go to the anti-Muslim
2 Web sites and then go commit atrocious acts. That doesn't mean
3 that that site made that person do it. He didn't make Chesser
4 and Khan and Morton go out and do what they did. As Mr.
5 Kromberg says, he stopped. They kept going. That's why
6 they're serving the sentences they're serving.

7 Mr. al-Khattab is now a pariah. The Muslims think
8 he's a Jewish spy. The Jews think he's a turncoat. He's got
9 no friends.

10 He's going to do some time, we understand that, and
11 he is ready to go do that time. But to hold him responsible
12 for all the hate and anger that's out there is just not
13 correct. He was a block in that wall, but he is not the wall.

14 So those 14 people that the Government contends were
15 connected to him because they read the Web site, that doesn't
16 mean he told them to go out and do whatever they did or
17 attempted to do.

18 He understands that in exercising his First Amendment
19 rights he went too far. And he has sat and talked with the
20 FBI, he has talked with others. He still does his job. His
21 family is still in Morocco because his wife can't come here.
22 He hopes when he gets out to be able to go back and forth, but
23 that remains to be seen.

24 So I ask the Court for a year and a day. I would be
25 shocked if the Court gave me a year and a day. I think

1 24 months, 30 months is probably a sentence that the Court is
2 going to be considering in this.

3 THE COURT: All right. Thank you, Mr. Yamamoto.

4 Mr. al-Khattab, come to the podium, please.

5 And it is your opportunity to tell me anything you
6 would like to before I sentence you. Please remain there when
7 you're done.

8 THE DEFENDANT: Thank you, Your Honor.

9 I'm sorry, I'm not a good speaker. I said from the
10 beginning, Your Honor, I never thought I crossed that line. I
11 know that I was obnoxious. I know that I am the Gilbert
12 Gottfried of the Muslims, you know, but I never -- that's the
13 mentality that I grew up with. I am not justifying that, Your
14 Honor.

15 I can't go into a two-day explanation, but when I
16 became Muslim, Your Honor, it was in Palestine in a refugee
17 camp. And there was no -- it just wasn't seen like it is seen
18 here. I could never imagine that anybody from the United
19 States, including some of those -- the scum that I was
20 connected with, and there was a lot of it, they never
21 understood what happened in Palestine, they never saw it. On
22 both ends, on the Jewish and on the misguided Muslim end. They
23 have no idea.

24 When I was there, I've never committed a crime, I've
25 never bothered anybody there, and I would be harassed, I would

1 be beaten up by police officers there.

2 When I came back -- you know, in Palestine the
3 resistance is, let's say the -- I don't know how you say it,
4 the Muslim Brotherhood against what they consider the local
5 occupier. I didn't understand the whole concept in full of
6 like what you would say al-Qaeda who's believes that it's a war
7 against Islam.

8 So I came over here and I met people that I thought
9 were like-minded like they were in Palestine, and they were
10 not. And I'm not an educated person, Your Honor. And I was
11 influenced by Younus, I don't know -- Jesse Morton, whatever
12 they call him, he was one of the first -- he is intelligent,
13 but it's a lot of rhetoric. And he is the first person that
14 actually -- you know, as I listened to him, and I was close
15 with him, I told him the first day -- well, let me just
16 backtrack a little bit.

17 The first time I met him, it was in a meeting of
18 Islamic Thinkers Society, and he was there. They were like the
19 first people that I met when I -- I knew them from online. I
20 came down and they were going to have a protest against a gay
21 parade, the leader of them who is an older guy.

22 So I said, that's insane, how are you going to do
23 that? How are going to bring these kids here and bring them in
24 the middle of 200,000 of these people and you are not going to
25 be there? It's just insane.

1 So this guy Jesse Morton heard me say that, and he
2 came over to me and he said, you know, you saw that too. That
3 was my connection with him.

4 A few, I guess it was a few weeks, I don't know the
5 exact time, he said, come on, I want to speak to you. We met
6 in New York. And he said, I agree with you with what you said.
7 I would like to make this organization with Sheikh Faisal -- I
8 never knew the details of Sheikh Faisal, I know basically who
9 he is, he believes that God's law should be first, whatever,
10 rhetorical arguments that he used, wrong arguments.

11 So I said, what do I have to offer you? I'm a
12 comedian, that's all, I'm a wiseguy, that's what I have. You
13 are the Colombia educated -- I am not trying to push this on
14 Younus. Okay. He said, that's fine, just keep it up.

15 Which is basically what I did. I was the clown. And
16 I was, you know --

17 THE COURT: You are an intelligent young man. And
18 your writings are clear. They convey the message that you
19 wanted delivered, and they are absolutely horrific.

20 And you're not a clown. You've never been a clown.
21 You've been a messenger for a group of extremists who you
22 joined voluntarily and, as far as I can tell, almost gleefully
23 were involved with until the day that you woke up.

24 So let's start there.

25 THE DEFENDANT: Okay, Your Honor.

1 THE COURT: Clown is not a word that you ought to be
2 using.

3 THE DEFENDANT: Okay. I'm sorry.

4 THE COURT: All right. Go ahead.

5 THE DEFENDANT: I was influenced by him. He was much
6 more intelligent than I was. And I had never really sat down
7 with somebody that could ask critical questions. As I spent
8 more time with him, I see that it's not really his opinion.
9 It's Chomsky, and it's Howard Zinn, and it's every other person
10 that has a critique of American society.

11 The way forward -- they kept asking me, what's the
12 way forward? The way forward they mean is jihad, that's what
13 they're talking about. I'm not comfortable with it, you
14 understand. I am not a violent person. And I really mean
15 that, Your Honor. I have been attacked on the boardwalk where
16 I could have done some terrible things, and I screamed rather
17 than hurt somebody. I don't like hurting even my enemy. I
18 don't like it. I don't like violence.

19 What Mr. Kromberg had said about the throwing acid,
20 it was obnoxious. It was an invocation. And I used that
21 invocation based on what I understood Judge Napolitano saying
22 that any invocation cannot be used as a threat. That's how I
23 understood that. I don't agree, I would not do it today. And
24 I denounced this before any of these things came down.

25 I saw the results, what was happening -- I am going

1 to go into the date now you said, 2009, around that time. I
2 saw what was happening. I saw the wrong message being taken.
3 I saw people are starting to get arrested. People, I don't
4 know these people. I didn't know that that was going to be the
5 result.

6 I'm good at typing on the Internet and these things.
7 Like they showed me a package of, you know, the connections,
8 this and that. I don't know who those people are. I didn't
9 know that you put people together like that.

10 But I do know that if you take Islamic Awakening
11 Forum, which is a huge forum that dwarfs me, they'll find much
12 more connections. And I'm not trying to TO to them, you will
13 find the same analysis that they did. I'm only responsible, as
14 I understood it, and I could be wrong, Your Honor, for what I
15 say, not how other people understood it.

16 Another thing, Your Honor, is the Fort Hood thing
17 that they keep bringing up. I never said that Fort Hood is
18 something -- you know, they're trying to say that I justified
19 it. I didn't.

20 What I said was, you cannot compare Fort Hood, which
21 was -- and I don't say that it should -- you know, I don't
22 support Fort Hood. It's not the same as a terrorist blowing up
23 Time Square or civilians, it's wrong, it's wrong, but he was
24 targeting a military base.

25 I did not -- when I read these things, it looks as

1 though I'm saying -- and they want asking this question time
2 and time again, what about Fort Hood? What about Fort Hood?
3 Why do you -- you know, I don't justify it, but it's not the
4 same as a terrorist in Boston, what that animal did or what the
5 animal in Time Square did.

6 THE COURT: You don't think that your posting the
7 location of the church, of the synagogue, the Chabad synagogue,
8 and the comments you made about that specific synagogue, wasn't
9 creating an enormously dangerous situation for those Jewish
10 people?

11 THE DEFENDANT: Your Honor, if I had thought that it
12 would be dangerous -- everything I did was obviously in the
13 public. I did not think it was.

14 Do I think it's edgy? Did I believe that I should
15 push my freedoms to the limit? I saw Max Blumenthal put a
16 video up, that's who my attorney was quoting, was Max
17 Blumenthal. I saw what they were saying. I was there, they
18 were celebrating the bombing of phosphorous bombs on a civilian
19 population.

20 I said, the way to go and reach these people is to
21 reach them in this synagogue. I did not mean -- and even, you
22 know, what he -- I shouldn't say he, I am sorry. They put
23 about the Anarchist's Cookbook. That was a link that I had
24 from Scribd. And I wasn't -- you know, I had the Anarchist's
25 Cookbook until I was in eighth grade in Blacksburg, Virginia.

1 You know, I did not mean for anybody -- and the police asked me
2 that, did you mean it? No, I did not.

3 Was I wrong? I mean, I look back now and I'm very
4 wrong. You know, not just on this level. On a more important
5 level to me, Your Honor, I've misguided a lot of people on a
6 religious basis. And what I am saying is I've got to pay for
7 that in the next -- on the day of judgment as well as this.

8 That I respect, Your Honor, believe me. And I'm not
9 mocking the United States or anything of the sort, but I lost a
10 lot of respect. I gave up this stuff. And I was the one that
11 stood forward and said, this is the wrong way, this is not the
12 way forward. You have got to step back and try to work things
13 out. It's not the way forward.

14 My family is my struggle. That's my family. That's
15 what I can -- you know, up until they're adults, that's who I
16 can try to guide. That's how I make a different world.

17 One of my sons, Your Honor, he mentioned something to
18 me. We believe as Muslims that everybody that gets the message
19 of Islam is accountable. They have gotten the message. They
20 are accountable to be Muslims. I'm sorry, I'm not trying to
21 proselytize, but this is a Muslim thought.

22 He mentioned to me Imam Noey had the opinion, if
23 somebody has the wrong opinion of Islam -- like they watch Fox
24 News, for example, and they see all the animals and they see
25 Yousef -- because I am not a representative. I don't represent

1 Islam. I representative ignorance, that's what I represented.
2 When they see this, this message, of course they hate Muslims.

3 Of course you have what he mentioned, Pamela Geller,
4 and Daniel Pipes, and Robert Spencer, and Patrick Dollard who
5 said, we're going to have to slaughter all the Muslims in a
6 tweet. We're going to have this because they got the wrong --
7 And I can't blame them. It bothers me.

8 I mean, obviously, you see the way my thought trend
9 used to be. It bothers me. But at the end of the day, I work
10 with these people every day. And they know, they know that I
11 have been charged -- you know, I'm American. And at the end of
12 the day when I'm -- I'm a working class guy. I'm even below
13 that. I don't live in the paradigm of most of the people in
14 this court, but I get along with everybody.

15 Even the most conservative people that they would
16 say, we can sit and we can discuss it. I don't mean harm on
17 America, on their interests. I disagree. I don't know if you
18 look at my Facebook, I continue to speak what I disagree on,
19 but I believe I had some right.

20 I was wrong, Your Honor, and with my heart in front
21 Allah, in front of God, I am sorry for misguiding people.

22 That's really all I can say, Your Honor. I am sorry
23 again.

24 MR. YAMAMOTO: Your Honor, I apologize, I have a
25 letter to hand up to the Court.

1 THE COURT: All right. Do you want me to make this
2 part of the record?

3 MR. YAMAMOTO: Yes, Your Honor.

4 THE COURT: All right. Then I will make the letter
5 from Mr. al-Khattab's parents a part of the record.

6 Well, you are here in this context, with a Guideline
7 range of 27 to 33 months, because you stopped, you realized
8 that you had gone over the line. You didn't wake up the first
9 time that the opportunity presented itself after the police
10 first came to see you about the danger that you were creating
11 to the members of our community.

12 I couldn't agree with you more that the hate that is
13 spewing between the Muslims and the Jews and between different
14 sects of Muslims, and many other ways in our society, are
15 destroying our ability to be Americans.

16 And freedom of speech carries with it
17 responsibilities. And there are so many people here who are
18 totally irresponsible in what they say, that it's caused
19 fractions and friction all over our community.

20 But you're here because you went way over the line.
21 Not a little bit over the line, but way over the line. And the
22 hate that you spewed -- I mean, you can put a twist on
23 virtually everything that you have said, but to a reasonable
24 person you were espousing violence, encouraging violence,
25 praising violence, and in very plain language and insightful

1 language.

2 You are not Chesser and you are not some of the other
3 people that have been sentenced to 15 or 20-year sentences.

4 And justifiably so, they have caused so much harm.

5 But what you did is criminal. You need to be
6 deterred because you are such a zealot in what you did and in
7 your personality. More importantly, we have got to make sure
8 that people understand the line and that others are deterred
9 from doing what you did.

10 I don't believe you're going to do it moving forward
11 with your life. I don't think that you will repeat this
12 mistake. If I did, I would put you in prison for as long as I
13 could. So don't make me wrong about that.

14 But a substantial sentence is necessary under the
15 3553 Guidelines given the facts of the case and the length of
16 time you were involved in this behavior, and the harm caused,
17 and the danger that you caused to members of the community, and
18 the fear, very reasonable fear, especially as to the Chabad
19 synagogue.

20 So I am going to sentence you to 30 months of
21 incarceration. Three years of supervised release.

22 I will order that you be on general conditions of
23 supervised release.

24 I will waive the drug testing as I don't believe it's
25 necessary.

1 A \$100 special assessment.

2 I will not impose a fine or costs of incarceration
3 because I find that you are unable to afford them.

4 I know that your computer is being monitored still.
5 You still have a computer, is that right?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: All right. I will not order that it be
8 independently monitored by any software as long as the
9 Government is monitoring it. If not, then I will leave it up
10 to the Probation Office to determine whether any monitoring is
11 necessary.

12 What's the Government's position on self-surrender?

13 MS. KROMBERG: We do not oppose self-surrender,
14 Judge.

15 THE COURT: All right. I will allow you to
16 self-surrender under the direction of the Probation Office when
17 you are notified by the Bureau of Prisons.

18 Do you have a facility in mind?

19 MR. YAMAMOTO: Otisville, Your Honor.

20 THE COURT: I am sorry.

21 MR. YAMAMOTO: Otisville, New York.

22 THE COURT: New York, right. All right, then we will
23 recommend that you be housed in Otisville, New York.

24 THE DEFENDANT: Thank you very much, Your Honor. And
25 can I --

1 THE COURT: Yes, sir.

2 THE DEFENDANT: I have no hard feelings and I thank
3 you. And I am sorry even after the verdict, I'm sorry.

4 THE COURT: Good luck to you, Mr. Khattab. You are
5 still a young man, and you've got a lot going for you, and I
6 will hope that you will take advantage of it.

7 THE DEFENDANT: God bless you. Thank you, Your
8 Honor.

9 THE COURT: All right.

10 MR. YAMAMOTO: Thank you, Your Honor.

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HEARING CONCLUDED

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20 I certify that the foregoing is a true and
21 accurate transcription of my stenographic notes.

22

23

24 /s/ Norman B. Linnell
Norman B. Linnell, RPR, CM, VCE, FCRR

25